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June 24, 2022

VIA ECF

Hon. Judge Stewart D. Aaron
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 1970
New York, NY 10007

Re: *Carlos Alvarez Chicas et al. v. Kelco Construction, Inc. et al.*
Case No.: 1:21-cv-09014 (PAE) (SDA)

Dear Judge Aaron:

We represent Defendants Kelco Construction, Inc., E.L.M. General Construction Corp., John Kelly, and Joseph Provenzano (“Defendants”) in the above-referenced matter. In accordance with the Court’s June 18, 2022 Order, Defendants write to provide an update to the Court concerning a number of developments:

- As an initial matter, Defendants consent to the filing of a Second Amended Complaint on or before July 1, 2022;
- Moreover, as the Court is aware, the parties have been actively discussing exploring a class wide resolution at a mediation. Most recently, on June 23, 2022, counsel for the parties met and conferred and agreed that the parties will participate in a private mediation; that the mediator will be Marty Scheinman; and that the parties will aim to conduct the mediation in or around September of this year.

Given that all fact discovery must be completed by December 31, 2022 and that Plaintiffs’ Motion for Conditional Certification of the Collective Action is due on June 24, 2022, the parties are concerned about expending significant fees and costs, particularly those associated with completing discovery and engaging in motion practice, that could otherwise be allocated towards a potential resolution of this matter. Therefore, in an effort to promote judicial economy and conserve the parties’ resources, the parties respectfully request that the Court (1) temporarily stay all proceedings pending the outcome of the private mediation, which, as previously stated, the parties anticipate will be conducted by September 30, 2022; (2) allow the parties to file a status report on the result of their mediation by September 30, 2022; and (3) if the parties are unable to reach a resolution of this matter at the mediation, allow Plaintiffs to file a Motion for Conditional

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Certification of the Collective Action by October 17, 2022, with Defendants' Opposition due on October 31, 2022, and Plaintiffs' Reply due on November 7, 2022.

Because of the complexity of this case, the parties jointly request that in the event the stay be granted, that the dates for completion of discovery be extended for the duration of the stay. Finally, the parties have agreed to a tolling of the FLSA statute of limitations from June 24, 2022 until October 17, 2022, in the event that the matter is not resolved.

We thank the Court for its time and consideration in this matter.

Respectfully submitted,

/s/Eli Freedberg

Eli Freedberg

Cc: All Counsel of Record (via ECF)

ENDORSEMENT:

It is hereby ORDERED as follows:

1. Plaintiffs' motion to amend, dated May 9, 2022, filed at ECF No. 34 is GRANTED.
2. The parties' request to temporarily stay all proceedings pending the outcome of the private mediation is GRANTED.
3. The parties' proposed briefing schedule for Plaintiff's motion for conditional certification of the collective action is approved.
4. No later than October 7, 2022, the parties shall file a revised Case Management Plan proposing new discovery deadlines.

SO ORDERED.

Dated: June 27, 2022

